

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
NOE SALAZAR FRAYRE,  
  
Defendant.

NO. CR-99-170-RHW

**ORDER GRANTING  
DEFENDANT'S MOTION TO  
VACATE CONVICTION**

Before the Court is Defendant's Amended Motion to Vacate Conviction Under 28 U.S.C. § 2255 (Ct. Rec. 74). Defendant presents evidence that he is a lawful permanent resident and that the Board of Immigration Appeals has vacated its prior removal order (Ct. Rec. 75-2 & 3). The Government has filed no response to Defendant's amended motion, and previously indicated that it had no objection "to a summary affirmance motion being filed by Noe Salazar-Frayre requesting this court to vacate the sentences imposed in this matter on the convictions under 8 U.S.C. § 1326 AND 18 U.S.C. §§ 922(g)(5) and 924" (Ct. Rec. 71).

Accordingly, **IT IS HEREBY ORDERED:**

1. Defendant's Amended Motion to Vacate Conviction Under 28 U.S.C. § 2255 (Ct. Rec. 74) is **GRANTED**.

2. The Court's Judgment and Amended Judgment in this matter (Ct. Recs. 17 and 24) are **VACATED**.

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**ORDER GRANTING DEFENDANT'S MOTION TO VACATE  
CONVICTION \* 1**

1       **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
2 order, provide copies to counsel, and **close the file.**

3       **DATED** this 27<sup>th</sup> day of May, 2009.

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5                               s/Robert H. Whaley  
6                               **ROBERT H. WHALEY**  
7                               Chief United States District Judge

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